

Supreme Court, U. S.
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MICHAEL ROBAX, JR., CLERK

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1977

No. 77-1414

ANNEMARIE HOFFMAN BECKWITH,

Petitioner,

v.

ROBERT T. L. BECKWITH,

Respondent.

**BRIEF IN OPPOSITION TO PETITION
FOR A WRIT OF CERTIORARI
TO THE
DISTRICT OF COLUMBIA COURT OF APPEALS**

**ELIZABETH R. YOUNG
1425 H Street, N. W.
Washington, D. C. 20005
(202) 628-6610**

Counsel for Respondent.

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Respondent Robert T. L. Beckwith respectfully opposes the issuance of a Writ of Certiorari to review the judgment and opinion of the District of Columbia Court of Appeals entered in this proceeding October 31, 1977.

ADDITIONS AND CORRECTIONS TO PETITIONER'S STATEMENT OF THE CASE

Mrs. Beckwith submitted herself to the personal jurisdiction of the Superior Court of the District of Columbia (the Trial Court) when she filed her counterclaim for divorce 355 A.2d 493, 494. See App. A 4a and 5a.

The District of Columbia Trial Court did *sua sponte* condition an award of *pendente lite* financial assistance to Mrs. Beckwith upon her submission of her child to blood grouping tests. But Mr. Beckwith both in his opposition to Mrs. Beckwith's motion to reconsider in that Court and at oral argument in the District of Columbia Court of Appeals having consented to the striking of that condition that issue was removed from the case prior to the decision of the District of Columbia Court of Appeals in the interlocutory appeal 355 A.2d 509. See App. A, p. 20a.

There was no final order or judgment respecting the blood grouping test entered in the District of Columbia Trial Court 379 A.2d 1641. See App. B 31a.

REASONS FOR DENYING THE WRIT

I.

THE ORDER FOR BLOOD GROUPING TEST WAS WITHIN THE SCOPE OF CONSTITUTIONALLY PERMISSIBLE POWER OF THE DISTRICT OF COLUMBIA TRIAL COURT.

The District of Columbia Trial Court had subject matter and personal jurisdiction and therefore jurisdiction to issue the blood grouping test order.

Superior Court Domestic Relations Rule 13(a) provides that a defendant brought suit upon by process by which that Court did not acquire jurisdiction to render a personal judgment need not file a compulsory counterclaim. However Mrs. Beckwith chose to counter-claim for

divorce, which as not compulsory was voluntary, and gave rise to personal jurisdiction. 355 A.2d 493, 494. See App. A 4a and 5a. And Mrs. Beckwith concedes that at "all times" the child has been in her custody. Pet. for Writ, p. 2 footnote 1.

II.

MRS. BECKWITH WAS NEVER "PUNISHED" FOR NOT COMPLYING WITH THE BLOOD GROUPING TEST ORDER, AND ABSENT THE IMPOSITION OF A SANCTION THE CONTEMPT CITATION ALONE IS NOT A FINAL ORDER AND RAISES NO JUSTICABLE ISSUE FOR APPEAL.

An appellant can only appeal from an adverse final order and judgment of the Superior Court of the District of Columbia. D.C. Code 1973, 11-721. In the instant case there is no such final order or judgment respecting the blood grouping tests because the trial judge declared the issue moot and discharged his Order to Show Cause. 379 A.2d 1641. See App. B 31a.

For these reasons the Petition for a Writ of Certiorari to the District of Columbia Court of Appeals should be denied.

Respectfully submitted,

ELIZABETH R. YOUNG
1425 H Street, N. W.
Washington, D. C. 20005
(202) 628-6610

Counsel for Respondent